Remarks

Claims 1-3 are pending in the subject application. By this Amendment, claim 1 has been amended to recite "wherein active regions of the plurality of active regions are of the same size." Support for this amendment can be found, at least, at Figure 1. No new matter is added by this amendment. Upon entry of this amendment, claims 1-3 will be before the Examiner. This amendment to the claims has been made in an effort to lend greater clarity to the claimed subject matter and to expedite prosecution. It should not be taken to indicate Applicant's agreement with, or acquiescence to, the rejections of record. Favorable consideration of the claims now presented, in view of the remarks and amendments set forth herein, is earnestly solicited.

Claims 1-3 are rejected under 35 U.S.C. §103(a) as being unpatentable over Tabery *et al.* (U.S. Pat. App. No. 2003/0052084) in view of Frenette *et al.* (U.S. Patent No. 5,770,490). Applicant respectfully traverses. The Office Action at page 3 states that Tabery teaches a method "wherein the first pattern includes a plurality of nonequally spaced active regions **504, 506, 508** on the substrate, wherein the distance between the plurality of active regions are unequally spaced (figure 5 and [0063]." However, Tabery *et al.* does not teach wherein the first pattern includes a plurality of active regions on the substrate as specified claim 1. Rather, Tabery appears to teach aperture profiling for phase shifting masks, where apertures **504**, **506**, and **508** are processed into a chrome layer **502** formed on a quartz layer **500** (*see* Tabery at paragraph [0063]). Chrome layer **502** of Tabery *et al.* is not an active region that is formed on a substrate to monitor a depth of a first shallow trench isolation as specified in subject claim 1.

Furthermore, Tabery *et al.* does not teach wherein active regions of the plurality of active regions are of the same size as specified in claim 1 as amended. Rather, first pattern (chrome layer **502**) of Tabery *et al.* is illustrated in Figure 5 as having different sizes.

Therefore, Tabery *et al.* does not teach or suggest a first pattern including a plurality of active regions on the substrate wherein the distances between each of the plurality of active regions are unequally spaced, wherein each active region of the plurality of active regions are of the same size. Frenette *et al.* does not cure this defect.

In addition, as previously submitted, Frenette *et al.* teaches a dual work function CMOS device and **not** a pattern for monitoring a shallow trench isolation profile. (*See* Frenette at col. 2, lines 8-19). Therefore, Frenette does not teach or suggest forming a second pattern on the substrate

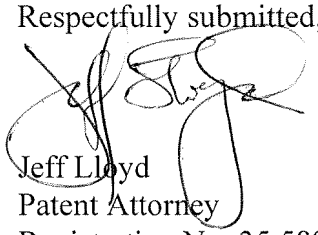
to measure electrical effects associated with a depth and a profile of a second shallow trench isolation as specified in subject claim 1.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejection of claims 1-3.

In view of the foregoing remarks and amendment to the claims, Applicant believes that the claims as currently pending are in condition for allowance, and such action is respectfully requested.

Applicant invites the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



Jeff Lloyd
Patent Attorney
Registration No. 35,589
Phone No.: 352-375-8100
Fax No.: 352-372-5800
Address: Saliwanchik, Lloyd & Saliwanchik
A Professional Association
P.O. Box 142950
Gainesville, FL 32614-2950

JL/sjk